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FEDERAL ELECTION  
COMMISSION  
2015 MAY 17 10 10 21

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
MUR 6804 ) DISMISSAL AND CASE  
Randall W. Olsen ) CLOSURE UNDER THE  
Committee to Elect Randall Olsen ) ENFORCEMENT PRIORITY CELA  
and Randall Olsen as treasurer ) SYSTEM  
North Park Prescription Pharmacy, Inc. )

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has determined that MUR 6804 should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup>

For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegation that Respondents Committee to Elect Randall Olsen and Randall Olsen in his official capacity as treasurer (collectively, the "Committee") failed to include

<sup>1</sup> The EPS rating information is as follows: 15. Complaint Filed: April 4, 2014. Response from North Park Prescription Pharmacy, Inc. Filed: April 28, 2014. Responses from Committee to Elect Randall Olsen Filed: May 7, 2014 and May 9, 2014.

1 disclaimers on its public communications, in violation of 52 U.S.C. § 30120(a)(1), find no reason to  
2 believe that the Committee to Elect Randall Olsen and Randall Olsen in his official capacity as  
3 treasurer (collectively, the "Committee") failed to timely register and report, as required by  
4 52 U.S.C. §§ 30103, 30104(a); and find no reason to believe that Randall W. Olsen or North Park  
5 Prescription Pharmacy, Inc. ("North Park Pharmacy") violated the Act and Commission  
6 regulations.<sup>2</sup>

7 According to Complainant Maximilian Halm ("Complainant"), Olsen<sup>3</sup> announced his  
8 candidacy for Congress on August 16, 2013, filed his Statement of Candidacy with the Commission  
9 on September 3, 2013,<sup>4</sup> and "actively campaigned" for office thereafter. Compl. at 1. Specifically,  
10 the Complainant alleges that Olsen held four fundraisers in early 2014 and that the Committee made  
11 expenditures for travel, campaign materials including yard signs and flyers, advertising space on  
12 North Park Pharmacy prescription bags, and a campaign website. *Id.* at 1-2. As a result, the  
13 Complainant asserts that Olsen "credibly aggregated \$5,000.00 in campaign contributions" and in  
14 "campaign expenditures." *Id.* at 2.<sup>5</sup> The Complainant asserts, however, that the Committee failed  
15 to file required financial disclosure reports, including the 2013 October Quarterly Report, 2013  
16 Year End Report, and 2014 Pre-Primary Report, in violation of the Act and Commission  
17 regulations. *Id.*

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<sup>2</sup> According to the Committee's amended Statement of Organization, filed on April 27, 2015, Randall Olsen replaced Patricia Jo-Alva Olsen as treasurer. Patricia Jo-Alva Olsen was the Committee's treasurer during the time period covered in this Report.

<sup>3</sup> Olsen was a 2014 candidate for Congress from Illinois's 16<sup>th</sup> Congressional District. He was defeated in the general election.

<sup>4</sup> On the same date, Olsen filed a Statement of Organization designating the Committee as his principal campaign committee.

<sup>5</sup> It should be noted that 11 C.F.R. § 100.3(a)(1) requires that the individual seeking nomination or election receive or expend "in excess of \$5,000."

1 The Complainant also states that the Committee produced yard signs and flyers that failed to  
2 include disclaimers in preprinted boxes, in violation of 11 C.F.R. § 110.11(c)(2)(ii). *Id.* Similarly,  
3 the Complainant alleges that the Committee purchased advertising space on North Park Pharmacy  
4 prescription bags that lacked disclaimers. *Id.* Alternatively, to the extent that the Committee did  
5 not pay for its advertisements on the prescription bags, the Complaint alleges that the Committee  
6 failed to report the advertising space as an in-kind contribution from North Park Pharmacy. *Id.*

7 The Committee responds that the Olsen campaign "had not reached the \$5,000 limit"<sup>6</sup> at the  
8 time the Complaint was filed, and asserts that its 2014 April Quarterly Report had been prepared  
9 and timely submitted to the Commission. Committee Resp. at 1. The Committee also states that  
10 the costs of building its website, which was being constructed by a campaign volunteer, were "about  
11 \$60" and would be reported as an in-kind contribution. *Id.* In addressing the alleged disclaimer  
12 violations, the Committee observed that one of the handouts was printed before Olsen announced  
13 his candidacy. *Id.* As for the lawn signs, the Committee charges that some images attached to the  
14 Complaint were intentionally cropped so as to give the appearance of missing a disclaimer where  
15 there was, in fact, a disclaimer. *Id.* at 2. Specifically, candidate Olsen states that "I have 300 of  
16 them and every single one of them has the disclaimer in a box in the lower right corner." *Id.*

17 However, the Committee concedes that the campaign advertisements on the pharmacy bags,  
18 which the Committee had paid for, lacked a disclaimer, but adds that it subsequently ordered a  
19 stamp, which it will use to affix a disclaimer in the future. *Id.* at 2. Likewise, the Committee  
20 acknowledges that it failed to include an appropriate disclaimer on a flyer, notifying citizens of four  
21 scheduled fundraisers, and on a second handout. *Id.* at 1-2. The Committee represents that it has

<sup>6</sup> The Committee refers to the \$5,000 limit set forth in "IRS form 8872." The Internal Revenue Service's Form 8872 pertains to certain organizations that are exempt from taxation under section 527 of the IRS code. As this is not an FEC filing, we do not address the issue further.

1 taken steps to remedy these violations, including purchasing a stamp bearing a disclaimer for the  
2 pharmacy bags and disclaimer labels for the handouts. *Id.* at 2.

3 North Park Pharmacy states in its Response that the pharmacy bags were provided, at no  
4 charge, by a separate entity—Rx Express Marketing—and that it had “removed from circulation”  
5 all of the bags in question and instructed Rx Express Marketing to destroy all bags that remained.  
6 North Park Pharmacy Resp. at 1. North Park Pharmacy denies any affiliation with “any of the  
7 advertisers (on the bags) including Randall Olson (*sic*).” *Id.*

8 Under Commission regulations, an individual does not become a candidate solely by  
9 voluntarily registering and reporting. *See* 11 C.F.R. § 104.1(b). Rather, an individual becomes a  
10 candidate when he or she receives more than \$5,000 in contributions or makes more than \$5,000 in  
11 expenditures. 52 U.S.C. § 30101(2)(A); *see also* 11 C.F.R. § 100.3. An individual’s principal  
12 campaign committee becomes a political committee, and is thus required to file reports, when that  
13 individual becomes a candidate pursuant to 11 C.F.R. § 100.3. *See* 52 U.S.C. §§ 30103(a),  
14 30104(a); *see also* 11 C.F.R. §§ 100.5(d); 104.1(a), (b); 104.5(a). Public communications that are  
15 authorized and paid for by a candidate’s political committee must contain appropriate disclaimers.  
16 52 U.S.C. § 30120(a)(1); *see also* 11 C.F.R. §§ 110.11(a)(1), (b)(1). Under the Act, a “public  
17 communication” includes an “outdoor advertising facility” and “any other form of general public  
18 political advertising.” 52 U.S.C. § 30101(22); *see also* 11 C.F.R. § 100.26. Such communications,  
19 if printed, are required to include a written disclaimer that is included in a printed box, stating that  
20 the committee paid for the communications in question. 52 U.S.C. § 30120(c); *see also* 11 C.F.R.  
21 § 110.11(c).

1 In this case, the Committee's 2014 April Quarterly Report discloses contributions, including  
2 candidate loans,<sup>7</sup> of \$5,361, and the Committee received \$1,733.60 of that amount between January  
3 1, 2014 through March 31, 2014.<sup>8</sup> Thus, Olsen did not become a candidate under the Act until  
4 sometime during that period, therefore, the Committee's 2014 April Quarterly Report was the first  
5 report his principal campaign committee was required to file. Accordingly, we recommend that the  
6 Commission find no reason to believe that the Committee failed to timely register and report.

7 Although the Committee admits to failing to include disclaimers on some of its public  
8 communications, it appears that it took prompt remedial action. Accordingly, the Office of General  
9 Counsel recommends that the Commission exercise its prosecutorial discretion and dismiss the  
10 disclaimer allegations against the Committee to Elect Randall Olsen and Randall Olsen in his  
11 official capacity as treasurer, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985). This Office also  
12 recommends that the Commission make no reason to believe findings as to Randall W. Olsen and  
13 North Park Prescription Pharmacy, Inc., as there is no indication that they violated the Act and  
14 Commission regulations in this matter. Finally, we recommend that the Commission approve the  
15 attached Factual and Legal Analyses and the appropriate letters, and close the file as to all  
16 respondents.

17 **RECOMMENDATIONS**

- 18 1. Find no reason to believe that the Committee to Elect Randall Olsen and Randall Olsen  
19 in his official capacity as treasurer violated 52 U.S.C. §§ 30103, 30104(a);  
20  
21 2. Find no reason to believe that Randall W. Olsen violated the Federal Election Campaign  
22 Act of 1971, as amended, and Commission regulations;

<sup>7</sup> Under the Act, the term "contribution" includes a "loan . . . made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A).

<sup>8</sup> According to its Report, the Committee expended only about \$4,597 during the campaign to date.

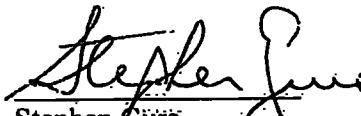
3. Dismiss the allegation that the Committee to Elect Randall Olsen and Randall Olsen in his official capacity as treasurer violated 52 U.S.C. § 30120(a)(1);
4. Find no reason to believe that North Park Prescription Pharmacy, Inc., violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations;
5. Approve the attached Factual and Legal Analyses and the appropriate letters; and
6. Close the file.


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5.17.16  
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